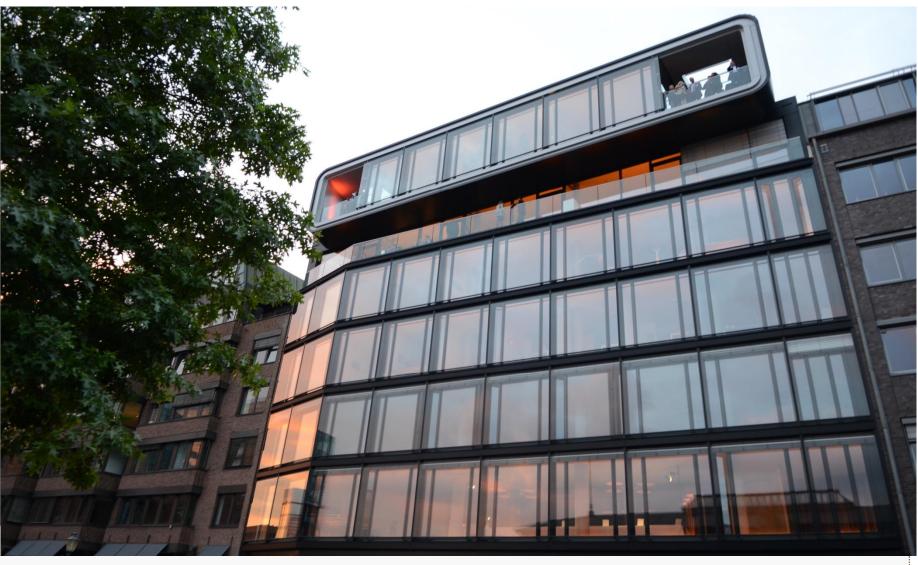


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Law Made in Germany

The New German Maritime Law

Dr. Jan Dreyer
Dabelstein & Passehl
Hamburg/Germany



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I. General overview over the reform

- Assimilation of maritime and general transport law
- Abolishing of outdated legal concepts
- Explicit regulation of Bareboat C/P and T/C contracts
- Explicit regulation of sea-waybill
- No termination of Hague Rules, potential ratification of Rotterdam Rules



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II. Structure of German Commercial Code 5th Book

- Part 1. Persons involved in shipping
- Part 2. Contracts of carriage
 - Ø Carriage of goods
 - Ø Contracts of affreightment
 - Ø Voyage charters
 - Ø Carriage of passengers
- Part 3. Provision of vessels
 - Ø Lease of vessels/BBC
 - Ø Time charter



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II. Structure of German Commercial Code - 5th Book

Part 4. Vessels in distress

- Ø Collision
- Ø Salvage
- Ø General average
- Part 5. Maritime Liens
- Part 6. Period of limitation
- Part 7. Limitation of liability



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III. Specific questions

- 1. Liability of the carrier
 - Liability for delay
 - Exclusion/limitation of liability (Error in navigation, fire)
- 2. Incorporation of C/P terms in B/L
- 3. Arrest of vessels



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III.1 The liability of the carrier

- Liability for loss of or damage to the goods from acceptance until delivery
- Basically the same situation as under § 606 GCC, but:
 - Ø no possibility to contract out of liability for loss/damage before loading and after discharge in standard terms
 - Invalidity of the so-called Period of Responsibility Clauses:
 "The Carrier shall in no case be responsible for loss of or damage to cargo arising prior to loading, after discharging ...
 (CI. 3 CONLINEBILL 2000)



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III.1 The liability of the carrier

Delay in Delivery

- Expert Commission/Ministerial Draft: liability for delay of an agreed or reasonable time
- Ø New Law: no special rules
 - general civil law applies
 - default required
 - demand note required
 - exclusion of liability possible



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III.1 The liability of the carrier

General Exemptions:

- Ø loss or damage not avoidable by the care of a prudent carrier
- Ø an unseaworthiness could not be detected until commencement of voyage
- ∅ in case of contributory fault of the injured party:
 - Ø partial liability subject to the prevailing circumstances



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The liability of the carrier **III.1**

Particular Exemptions:

- perils or accidents of the sea or other navigable water
- war, civil strife, interventions by public authorities etc
- attachment by courts Ø
- strike



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III.1 The liability of the carrier

Particular Exemptions:

- Ø acts and omissions of the charterer or shipper, incl. insufficient marking and packing
- inherent vice and particular characteristics of the goods
- Ø carriage of livestock
- salvage and life saving

Note: not fire or error in navigation



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III.2 Incorporation of C/P terms in B/L

Bills of Lading

- Owner is deemed to be carrier, if B/L does not indentify the carrier
- Conditions, to which the B/L only refers, do not become part of the B/L
 ØIncorporation clauses in Voyage Charters invalid

All terms and conditions, liberties and exceptions of the Charter Party, dated as overleaf, including the Law and Arbitration Clause, are herewith incorporated.

(CI. 1 CONGENBILL)



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III.3 Arrest of vessels

Simplification of arrest of vessels

- \emptyset "Ground" = special urgency no longer required
 - Ø for vessels, but
 - one not for other assets, e.g. bunker
- Ø Risk of wrongful arrest minimised
- Ø Service of arrest order on captain valid (clarification)



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Thank you

Please feel free to direct questions or comments to

Jan Dreyer j.dreyer@da-pa.com

